

REMARKS

In the present Application, forty-one (41) claims were originally filed. Claims 1-41 currently stand rejected. Claims 1, 14, and 18 are amended herein. Applicants respectfully request that the Application be reconsidered in light of the present amendments and accompanying remarks.

Specification

In paragraph 4 of the present Office Action, the Examiner states that “[t]he cross reference related to the application cited in the specification must be updated.” Applicants accordingly amend the Specification in accordance with the Examiner’s suggestions.

35 U.S.C. § 102(e)

In paragraph 6 of the Office Action, the Examiner rejects claims 14, 16, and 18-41 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,763,519 to McColl et al. (hereafter McColl). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that McColl fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner's rejection of independent claim 14, Applicants respond to the Examiner's §102 rejection as if applied to amended independent claim 14 which is amended herein to recite "*a system user viewing said user interface to interactively perform an analysis procedure of available system resources required to support said requested process, said user interface including projected resource usages for said requested process displayed in combination with allocated resources for existing processes*" which are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto.

In particular, McColl generally teaches "a universal, high-level control mechanism for a signature-driven task scheduler" in which "[o]ne component of a task scheduler is a measure of the communication resources needed by the task" (column 6, lines 41-65). The Examiner repeatedly cites a single passage of McColl, starting at column 19, line 30, in support of most of the rejections of Applicants' claims under 35 U.S.C. §102. Applicants' respectfully submit that the cited passage fails to disclose the claimed limitations recited in claims 14, 16, and 18-41.

Although McColl alludes to a "user interface", Applicants respectfully submit that McColl fails to teach displaying a user interface that includes "projected resource usages for said requested process displayed in combination with allocated resources for existing processes," as claimed by Applicants. Furthermore, many of the claimed details for utilizing Applicants' user interface are completely absent from McColl. For example, McColl nowhere discloses the

detailed “expanded user interface” recited by Applicants in claims 18 and claims 36 through 39.

With regard to claim 41, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claim 14 which is discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 41. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 41, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof.

Applicants respectfully submit that, in light of the substantial differences between the teachings of the cited references and Applicants’ invention as disclosed in the Specification, claim 41 is therefore not anticipated or made obvious by the teachings of McColl. Applicants specifically direct the Examiner’s attention to Applicants’ discussion of FIGS. 8-11 (Specification, page 18, line 11 through page 24, line 4) which describes in detail the Applicants’ claimed “means for generating a user interface”

Regarding the Examiner’s rejection of dependent claims 16 and 18-39, for at least the reasons that these claims are dependent from an independent claim whose limitations are not taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the independent claim, are also not taught or suggested. Applicants

therefore respectfully request reconsideration and allowance of dependent claims 16 and 18-39 so that these claims may issue in a timely manner.

In addition, Applicants submit that McColl nowhere discloses the detailed “expanded user interface” recited in claim 18 by which a system user can “interactively manage said resources in said electronic device by alternately selecting a request cancellation, an existing task cancellation, and a resource analysis procedure that is performed by referencing an expanded user interface.” Claims 36 through 39 recite additional detailed limitations with regard to the foregoing “expanded user interface”. Applicants also submit that dependent claims 27 through 35 recite structure and functionalities not taught by McColl, including the “normal operational mode” of claim 27, and the “request mode” of claim 30.

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite McColl to identically teach the claimed invention, Applicants respectfully request reconsideration and allowance of claims 14, 16, and 18-41, so that these claims may issue in a timely manner.

35 U.S.C. § 103

In paragraph 33 of the Office Action, the Examiner rejects claims 1-13, 15, and 17 under 35 U.S.C. § 103(a) as being unpatentable over McColl in view of U.S. Patent No. 6,502,123 to Gulick (hereafter Gulick). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of McColl according to the teachings of Gulick would produce the claimed invention. Applicants submit that McColl in combination with Gulick fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicants also submit that neither McColl nor Gulick contain teachings for combining the cited references to produce the

Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

The Examiner relies upon Gulick to support the rejections under 35 U.S.C. § 103(a). Gulick essentially teaches utilizing only “certified applications” to instantiate isochronous tasks to thereby ensure sufficient system resources. “The operating system will only initiate an application (sic) is known to be well-behaved by checking a list of certified applications” (column 2, lines 49-51). In addition, Gulick discloses that a “scheduler 218 may query a user via user interface 220 for action to take” when insufficient resources are available.

Applicants respectfully submit that the simple query disclosed by Gulick is far less than the substantial “analysis procedure” performed by a system user of Applicants' claimed invention. Furthermore, Applicants submit that Gulick discloses few details about how the foregoing query is presented to the system user, and nowhere teaches a user interface that includes “*projected resource usages for said requested process and allocated resources for existing processes*” as disclosed and claimed by Applicants. In addition, because of similar claim limitations, Applicants hereby incorporate the foregoing arguments made with respect to the Examiner's rejections under 35 U.S.C. § 102(e).

Regarding the Examiner's rejection of dependent claims 2-7, 9-11, 13, 15, and 17, for at least the reasons that these claims are dependent from independent claims whose limitations are not taught or suggested, the limitations of these dependent claims, when viewed through or in combination

with the limitations of respective independent claims, are also not taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2-7, 9-11, 13, 15, and 17 so may issue in a timely manner.

The Examiner concludes that “[i]t would have been obvious . . . to combine McColl and Gulick . . . since the scheduling method and resource allocation method provided by McColl is given in a very broad manner” Applicants respectfully submit that a *general restatement of the advantages disclosed by the Applicants* deriving from implementation of the present invention cannot act as the required teaching or suggestion to combine cited references for a proper rejection under 35 U.S.C. § 103. Courts have repeatedly held that “it is impermissible . . . simply to engage in *hindsight reconstruction* of the claimed invention, using the Applicants’ structure as a template and selecting elements from references to fill in the gaps.” In re Gorman, 18 USPQ 1885, 1888 (CAFC 1991).

For at least the foregoing reasons, the Applicants submit that claims 1-13, 15, and 17 are not unpatentable under 35 U.S.C. § 103 over McColl in view of Gulick, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1-13, 15, and 17 under 35 U.S.C. § 103.

Examiner Interview Summary

On December 9, 2004, Applicants' representative, Gregory Koerner, held an Examiner's Interview with Examiner Syed Ali to discuss various differences between the cited references and Applicants' claimed invention. Applicants argued that neither McColl nor Gulick teach displaying a user interface that includes "projected resource usages for said requested process displayed in combination with allocated resources for existing processes," as claimed by Applicants in claim 14. In addition, Applicants argued that neither McColl nor Gulick disclose the detailed "expanded user interface" recited by Applicants in claims 18 and claims 36 through 39. Finally, Applicants argued that dependent claims 27 through 35 recite additional structure and functionalities not taught by McColl or Gulick, including the "normal operational mode" of claim 27, and the "request mode" of claim 30.

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a). Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-41, so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

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